

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	
Investigation into the Customer Authorization)	Docket No. 15-0073
Required for Access by Third Parties Other)	
Than Retail Electric Suppliers to Advanced)	
Metering Infrastructure Interval Meter Data)	

**Joint Statement of Position of
The Citizens Utility Board and Environmental Defense Fund**

NOW COMES the Citizens Utility Board (“CUB”) and the Environmental Defense Fund (“EDF”), through their attorneys, pursuant to the Administrative Law Judge’s order of July 10, 2015, in Illinois Commerce Commission (“ICC” or “the Commission”) Docket No. 15-0073, which “seeks to investigate the need for, and form of, customer authorization required for access by third parties, other than Retail Electric Suppliers (“RES”), to Advanced Metering Infrastructure (“AMI”) interval meter data.” ICC Initiating Order at 1 (January 28, 2015).¹ CUB/EDF address the following issues raised throughout the course of this proceeding:

- The need for Commission action in this area;
- Guiding principles the Commission should use in evaluating authorization language and processes;
- Standard authorization language, including the term of authorization;
- Representation of authorization – that is, how a utility knows that authorization has been given; and
- Authorization process.

¹ CUB/EDF have filed, as have most parties, five sets of verified comments in this docket prior to this Statement of Position.

Consistent with the Motion to Stay filed in ICC Docket No. 14-0507, CUB/EDF do not address how customer authorization should be conveyed to the utility, e.g. whether authorization should be done in a particular electronic format.² The scope of this docket is defined as: “the need for, and form of, customer authorization required for access by” non-RES third parties. ICC Initiating Order at 1 (January 28, 2015). Therefore, the scope of this proceeding is limited to the process of *authorization*, and not to the process or format of transmitting data to non-RES third parties. CUB/EDF Ver. Init. Comments at 12. Also, consistent with CUB/EDF’s Verified Initial Comments, the following terms are defined for use herein below:

- **Authorization Format:** The physical means by which customer consent is obtained (e.g., electronic signature, wet signature, text message, recorded phone conversation, etc.).
- **Authorization Language:** Language that informs a customer that he/she is providing consent for non-RES third parties to access his/her usage data from the customer’s respective utility.
- **Authorization Process:** The step-by-step method of presenting authorization language to a customer, obtaining customer consent, validating that the consent is genuine, and releasing the customer’s usage data to the authentic non-RES third party.
- **Warrant:** Confirmation, similar to an affidavit, provided by a non-RES third party to a utility that verifies that the third party has obtained authentic customer authorization.

² ICC Docket No. 14-057, CUB/EDF’s proposal for an Open Data Access Framework, was in effect bifurcated to address questions related to the need for, and form of, customer authorization for interval usage data, to be addressed in this docket. *CUB/EDF Motion to Stay* at ¶3, ICC Docket No. 14-0507 (Dec. 17, 2014). CUB/EDF note that the motion to stay was filed pursuant to discussions with ComEd, Ameren and other parties, including Staff, as to how to proceed to address issues raised in that docket; no party objected to that motion or to the process described in it, which included opening the instant docket. *Id.*

I. The Need for Commission Direction on Customer Authorization

CUB/EDF believe it is necessary and appropriate for the Commission to approve standard customer authorization language for use by utilities and third parties and the ways in which customer authorization is represented to the utilities. Empowering customers to take full advantage of AMI infrastructure, including smart meters, is imperative given the massive investment of ratepayer dollars by Commonwealth Edison Company (“ComEd”) and Ameren Illinois Company (“Ameren” or “AIC”) in the coming years as required by the Energy Infrastructure Modernization Act (“EIMA”). CUB/EDF Ver. Init. Comments at 3-5. Establishing guiding principles, approving standard authorization language, and outlining acceptable authorization procedures will provide well-defined expectations for utilities and non-RES third parties while simultaneously providing a clear and streamlined authorization process for customers that will allow them to enjoy the benefits of usage data generated by their smart meters. *Id.* CUB/EDF believe that issues such as how customers and non-RES third parties can work with the utilities and RES to access the usage data made available by ComEd and Ameren’s AMI investments is an important one for the Commission to address. CUB/EDF Ver. Reply Comments at 3-4.

II. Guiding Principles

It is appropriate for the Commission to establish foundational principles that govern the process, format and expectations associated with accessing interval usage data. CUB/EDF Ver. Init. Comments at 6. Indeed, the guiding principles recommended should be used to evaluate proposals for authorization language, process and format. CUB/EDF Ver. Reply Comments at 4.

CUB/EDF propose the following list of principles for adoption in this proceeding:

- *Self-Directed*: Only the customer has the ability to authorize a utility to share his/her usage data with a non-RES third party. The customer can revoke this authorization at the customer's discretion. CUB/EDF Ver. Reply Comments at 4-5.
- *Simple*: Language, process and format should be designed to minimize customer confusion and the administrative burden for utilities and third parties. As such, the process and method for obtaining, verifying, and exchanging customer authorization for non-RES third parties should be as simple, clear, and streamlined as possible.
Id.
- *Convenient*: Customer authorization processes should support multiple methods for providing service providers access to their information. Any authorization language and processes should not only permit traditional paper processes for those without technology but should anticipate continuing evolutions in digital and web-based technology. The same methods should be acceptable in the case of a customer's decision to de-authorize non-RES third party access to his/her usage data. *Id.*
- *Standardized*: To the extent practical, the language and process used for customer authorization should be standardized. Doing so will ensure that the customer is adequately and appropriately informed, provide certainty for utilities, RES and third-parties, and easily allow stakeholders and the Commission to determine whether or not adequate customer disclosure was provided. *Id.*
- *Self-policing*: To the greatest extent possible, the established authorization process should provide adequate disclosure and protection without regular involvement from the Commission and regular discretionary oversight from utilities. The process should minimize the administrative burden on utilities and the extent to which

utilities are expected to approve or disapprove access of non-RES third parties based on their intent. *Id.*

- *Verifiable*: Customer authorization should be verifiable, which means that: (1) there should be a means by which customer identity is verified as protection against identity theft; and (2) the non-RES third party must not be able to falsify customer authorization when requesting access from the utility. A simple method for such authentication should be established. *Id.*

III. Authorization

A. Standard Language

To the extent practicable, standardized language should be used to obtain customer authorization. CUB/EDF Ver. Init. Comments at 9. Establishing standardized language helps facilitate a clear and simple authorization process while also ensuring that every customer is supplied with identical information when it comes to providing informed consent. CUB/EDF Ver. Reply Comments at 7.

CUB/EDF propose the Commission adopt the following as the standard language to be used in obtaining customer authorization for the sharing of interval usage data:

I, [CUSTOMER NAME] understand that [NAME OF THIRD PARTY] seeks access to electricity usage information, and hereby authorize [UTILITY] to provide my electricity usage information to [NAME OF THIRD PARTY] for the purposes of [PURPOSE]. This information includes my electricity usage levels for distinct time periods no longer than 60 minutes to the extent this information has been recorded and retained by [UTILITY].

I understand that [NAME OF THIRD PARTY] will use my electricity usage information solely for the purpose described here, and that [NAME OF THIRD PARTY], will not sell or license my electricity usage information to any other party for any other purpose, provided that it may share my electricity usage data with an affiliate or contracted vendor if that is necessary for the purpose described here.

I authorize [NAME OF THIRD PARTY] to access my usage information for the previous 24 months as well as [TERM] future months. I understand that I may revoke this authorization at any time by contacting [UTILITY] or [NAME OF THIRD PARTY]. This authorization to access and use my electricity usage information will expire (a) after [TERM] months after this authorization is executed, (b) upon notification to [UTILITY] by [NAME OF THIRD PARTY] that it no longer seeks access to my electricity usage information or (c) upon notification to [UTILITY] by me or by [NAME OF THIRD PARTY] that I have revoked [NAME OF THIRD PARTY]'s authorization to access my usage information. CUB/EDF Ver. Final Comments at 2.

CUB/EDF believe that it is important that third parties disclose the purpose for which the data will be used and, to that extent, third parties should be afforded a certain degree of flexibility in their description of that purpose. CUB/EDF Ver. Reply Comments at 8. Flexibility allows for a wide variety of third parties to request data—including third parties that may offer unforeseen technologies or services in the future. *Id.* Finally, deviations from the standard language can be reviewed in the context of the guiding principles – does the language, even with a deviation, adhere to the principles adopted here? *Id.*

This standardized language should be used regardless of how authorization is represented to the utility. *Id.* Requiring different language for different representation methods is unnecessary and confusing for customers since in either case customers should be aware that they can always contact either the utility or the third party to revoke authorization, whether authorization was given by electronic means through a utility website (the “green button” approach) or by a third party on behalf of a customer (the “warrant” approach). *Id.*

B. Period of Authorization

1. Historical Period of Authorization

CUB/EDF understand the parties to have agreed that once authorization is granted, the third party will receive that customer’s historical usage data for the past 24 months and

that no party is contesting this. CUB/EDF Ver. Final Comments at 4. CUB/EDF agree that this information should be shared with authorized third parties, and for that reason, include a description of historical data authorization in included in the proposed language above. *Id.*

2. Prospective Period of Authorization

CUB/EDF believe that once customer authorization is given, that authorized third party has authorization for 24 months from the date of authorization. CUB/EDF Ver. Surreply Comments at 7. However, CUB/EDF believe that a customer and non-RES third party should be able to agree that a different term is appropriate. *Id.* Following the principle that the customer is ultimately “in the driver’s seat regarding the release of their interval usage data,” ComEd Ver. Reply Comments at 5, CUB/EDF propose the customer have the option to designate the length of time for which authorization should be granted. CUB/EDF Ver. Final Comments at 4.

There are demonstrated practical reasons for allowing the customer to choose an authorization period for a time other than the default two-year period. *Id.* As noted by Elevate Energy and Mission:data, individual programs, services arrangements and measures can be longer than 24 months, and often involve tracking usage over time for purposes such as evaluation, measurement and verification.³ CUB/EDF Ver. Surreply Comments at 7. For example, Illinois energy efficiency programs can cover multiple years – each plan is a 3-year cycle – not including the time needed for the measurement and verification of savings. *Id.* This means the need for data authorization to ensure a cost-effective program would need to be at least four years: Outreach and engagement may occur in the months between the Commission approval of the program, contract approval,

³ See Elevate Energy Ver. Reply Comments at 3; Mission:data Ver. Reply Comments at 7

and the June program start date prior to the start of the three-year program period.

CUB/EDF Ver. Final Comments at 5. After the program is completed, measurement and verification of savings for these programs typically take 9-10 months as conducted by external consultants to the utilities. *Id.* Where services are tied to guaranteed savings, such as with energy efficiency retrofit programs, savings must often be verified over several years. *Id.*

Even programs that provide ongoing engagement, making reauthorization seamless, could be negatively impacted by a mid-term limitation. *Id.* Monitor-based commissioning – an energy efficiency practice that uses ongoing monitoring of building data to ensure it is operating to its most efficient design – or the provision of building analytics, or behavior change programs, may have programmed data streams interfacing directly with building automation systems, which could negatively impact facility operations if cut off. *Id.*

For these reasons CUB/EDF believe that a default, prospective term of authorization should be set at 24 months but each customer and third party should be able to agree to a longer term if they so choose.

IV. Representation of Authorization

A. Customer Representation

Customers should be allowed to represent to their utility that they have granted a third-party authorization to access their interval usage data, and such representation can be made electronically or by some other means. CUB/EDF Ver. Final Comments at 10-11. It is also important that multiple authorization formats and processes be available to customers that are easy and convenient to use (e.g. via wet signature, text message, smartphone application, etc.), and CUB/EDF believe that each utility will in fact develop

multiple processes to respond to the technological needs and limitations of their customers. CUB/EDF Ver. Surreply Comments at 9. For example, the ability to authorize a non-RES third party via a variety of formats is especially important for those customers who do not speak English or have access to the internet as well as for non-RES third parties that may wish to obtain authorization at an outreach event where no internet or telephone is readily available. *Id.*, citing Elevate Energy, ComEd, and Mission:data also emphasized need for allowing multiple authorization formats. Elevate Energy Ver. Reply Comments at 6-7; ComEd Ver. Reply Comments at 5; Mission:data Ver. Reply Comments at 3-4. Since not all customers will have access to electronic means of authorization, CUB/EDF recommend the Commission direct the utilities to accept representation by other means, such as over the phone. *Id.*

B. Third Party Representation

Given the limited scope of this proceeding, CUB/EDF believe the key question for the utilities to be this: should utilities expect authorization only from the customer or can third parties represent to the utility that they have received authorization from customers? CUB/EDF Ver. Final Comments at 9. The representation of third parties that they have customer authorization has been referred to throughout this docket as a “warrant” process, and could apply to one customer or groups of customers.⁴ *Id.*

Customers should be allowed to authorize a third party to demonstrate authorization to the utility, that is, third parties should be allowed to represent that they have customer authorization and utilities should accept that authorization if the third party follows a process approved by the ICC for use by a utility. Every effort should be

⁴ CUB/EDF first used the term “warrant process” to refer to the third party’s representation of customer authorization on behalf of multiple customers. See CUB/EDF Ver. Init. Comments at 11. The warrant serves as confirmation to the utility that the third party has obtained customer authorization. *Id.*

taken to ensure to the privacy of customer usage data, and the Commission should not approve a representation process that does not put in place safeguards to access such data or require verification from third parties. CUB/EDF Ver. Fifth Round Comments at 3. CUB/EDF believe that the Commission, the utilities, and the stakeholders can agree on a process by which customer privacy is protected and customer interests' in new products and services recognized. *Id.*

The PUA does not require a third party to be under the jurisdiction of the Commission, and ignores the focus of this and the related proceedings where the utilities and stakeholders have sought to fashion a means by which customers can obtain value from the interval usage data made available from the million-dollar investments in AMI those customers are paying for. *Id.* The law requires customers authorize third parties before those parties can receive customer data; it does not limit who those third parties are. *Id.* Nor does it require that each customer separately give directly to the utility authorization. *Id.*

Section 16-122 addresses the privacy of customer usage data within the overall competitive market for electricity supply established by Section 16 of the PUA.⁵ CUB/EDF

⁵ Section 16-122 states:

- (a) Upon the request of a retail customer, or a person who presents verifiable authorization and is acting as the customer's agent, and payment of a reasonable fee, electric utilities shall provide to the customer or its authorized agent the customer's billing and usage data.
- (b) Upon request from any alternative retail electric supplier and payment of a reasonable fee, an electric utility serving retail customers in its service area shall make available generic information concerning the usage, load shape curve or other general characteristics of customers by rate classification. Provided however, no customer specific billing, usage or load shape data shall be provided under this subsection unless authorization to provide such information is provided by the customer pursuant to subsection (a) of this Section.
- (c) Upon request from a unit of local government and payment of a reasonable fee, an electric utility shall make available information concerning the usage, load shape curves, and other characteristics of customers by customer classification and location within the boundaries of the unit of local government, however, no customer specific billing, usage, or

Ver. Fifth Round Comments at 2. It does require customer authorization before a customer's interval usage data can be shared with a third party. Written in the context of the development of a competitive retail electricity market and providing explicit access for a retail customer, a designated agent of a retail customer, an ARES, and a unit of local government, it was part of the legislation enabling a competitive market for retail electric supply. 220 ILCS 5/16-122; see also "Electric Service and Customer Choice Rate Relief Law of 1997," Public Act 9-561."

Imputing into Section 16-122 an exclusive list of situations when data may be exchanged would eliminate important customer benefits created by the EIMA and its mandatory investments AMI meters and smart grid technologies. ComEd and Ameren must have discretion, as limited by Illinois laws, to share this data where necessary to fulfill the PUA and EIMA's purpose and create customer benefits. CUB/EDF agree with Commission Staff that what the law requires is that third parties, including RES, present to the utility verifiable evidence of customer authorization. CUB/EDF Ver. Fifth Round Comments at 4, citing Staff Ver. Final Comments at 8, 10.

Customers are not a monolithic group. *Id.* Some may have access to the internet, some may not. CUB/EDF Ver. Surreply Comments at 9. If a customer is part of a larger group, say a utility bill clinic of the type offered by CUB, it would be inefficient and burdensome on the customer to have them leave the clinic, and have to separately authorize CUB after the fact for access to their interval usage data to help them enroll in energy saving programs. CUB/EDF Ver. Fifth Round Comments at 4. CUB – or Elevate

load shape data shall be provided under this subsection unless authorization to provide that information is provided by the customer.

(d) All such customer information shall be made available in a timely fashion in an electronic format, if available. 220 ILCS 5/16-122.

Energy or other third parties – should be able to present to the utility evidence of customer authorization for groups of customers. As Staff notes, such a “warrant” process may be more efficient in some circumstances, and that requiring individual customers to directly contact the utility could increase the likelihood that the authorization process will not be completed. *Id.*, citing Staff Ver. Final Comments at 11.

For these reasons the Commission should allow third parties to represent customer authorization if there is verifiable evidence of customer authorization presented, either directly or through an approved authorization process.

D. Authorization Process

In its Comments, CUB/EDF have presented various scenarios of how customer authorization might be processed, such as:

- A non-RES collects bulk authorization from customers via a warrant and presents this along with account numbers to a utility as proof of authorization;
- A customer gives authorization to a non-RES who submits proof of authorization and customer account number to the utility each time usage is accessed (likely used for those customers not set up for Green Button); and
- Ongoing data access in which a non-RES registers with the utility and a customer is able to authorize the non-RES to access his/her usage data via the utility website (or similar method). This would likely utilize the Green Button Connect My Data function, which allows for ongoing bulk transfer of customer electric usage data. CUB/EDF Ver. Init. Comments at 11-12.

In keeping with the guiding principles discussed above, it is important that customers of different types and technology usage have options by which to easily, quickly and securely authorize third-parties. *Id.* CUB/EDF believe that in any process, it will be

necessary for the utility to be able to ensure that: (1) when a customer requests that the utility share his/her data with a registered third party he/she is not an imposter and (2) when a registered third party requests access to access a customer's data and provides proof of authorization to the utility, that the authorization is authentic. CUB/EDF Ver. Fifth Round Comments at 2.

Therefore, CUB/EDF recommend the Commission approve several types of authorization processes:

- For the first scenario in which a customer seeks to authorize a registered third party, the utility should provide a unique username and password to each customer that allows him/her to sign in to a website and select the desired third party from a list ("third party registration.")
- For the second scenario in which a third party is providing proof that it has obtained authorization, the third party should be required to provide customer-specific information (e.g. customer account number, amount on customer's most recent utility bill, username/password, etc.) to authenticate customer consent.

CUB/EDF Ver. Reply Comments at 9-10.

CUB/EDF recommend the Commission allow the utilities to authenticate third parties through a registration process whereby a non-RES third party registers with the utility in order for a customer to easily communicate to the utility that they authorize that third party for access to his/her usage data. CUB/EDF Ver. Reply Comments at 9; CUB/EDF Ver. Init. Comments at 10-12. For the registration process to take place, the Commission should require that a utility request, at a minimum, the following information from a third party:

- Third party name;

- Contact information (address, phone number, email address, etc.)
- An executed agreement stating the third party understands and will abide by the approved authorization language and process (approved in this docket) stating that all authorizations must be authentic and that the non-RES third party will not unnecessarily share customer usage data. A “digital signature” or affirmative checkbox should be acceptable.
- Sufficient information as required for the utility to transmit the data.

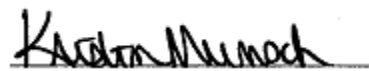
Multiple authorization formats and processes be available to customers that are easy and convenient to use (e.g. via wet signature, text message, smartphone application, etc.), and that this detailed description of an online, pre-registered process was intended to address open questions with regard to mechanics, and should in no way be construed as an endorsement of that process as the sole process that utilities should develop. CUB/EDF Ver. Surreply Comments at 10.

Conclusion

CUB/EDF recommend the Commission issue a proposed order in this proceeding which follows the recommendations contained herein.

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Respectfully submitted,



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A handwritten signature in black ink, appearing to read 'Michael Panfil', is positioned above a horizontal line.

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